

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1076**

**Introduced by Assembly Member Cogdill**

February 22, 2005

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*An act to amend Sections 1240, 17002, 17014, 17070.15, 41020 of, and to add Section 35186 and Article 9.3 (commencing with Section 35276) to Chapter 2 of Part 21 to, the Education Code, relating to public education, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, as amended, Cogdill. Public education: Williams case settlement: implementation.

Existing law establishes various requirements with respect to teacher credentialing, instructional materials, and school facilities.

~~This bill would declare that it is the intent of the Legislature to enact legislation to ensure that the settlement agreement in the case of Williams v. State of California is properly implemented.~~

*This bill would require the county superintendent of schools of each county, by March 1, 2006, to establish an Education Monitoring Task Force, composed as specified, which shall be responsible for ensuring compliance with the settlement agreement in the case of Williams v. State of California (Super. Ct., San Francisco, No. CGC-00-312236), with respect to, among other things, the adequacy and sufficiency of instructional materials, the condition of school facilities that are not maintained in a clean or safe manner or in good repair, and teacher vacancies and misassignments.*

*The bill would also impose various requirements on school districts with respect to consulting with the county's Education Monitoring Task Force with respect to, among other things, instructional*

materials, school facilities, and teacher vacancy or misassignments, thereby imposing a state-mandated local program.

The bill would also require a school district, by January 1, 2006, to implement a uniform complaint process, as specified, to help identify and resolve deficiencies related to instructional materials, the condition of school facilities that are not maintained in a clean or safe manner or in good repair, and teacher vacancies or misassignments, as defined, thereby imposing a state-mandated local program.

The bill would appropriate the sum of \$20,200,000 from the General Fund to the State Department of Education, to be allocated as specified, for purposes of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. It is the intent of the Legislature to enact~~  
 2     ~~legislation to ensure that the settlement agreement in the case of~~  
 3     ~~Williams v. State of California (Super. Ct., San Francisco, No.~~  
 4     ~~CGC-00-312236) is properly implemented.~~

5     SECTION 1. Section 1240 of the Education Code is amended  
 6     to read:

7     1240. The county superintendent of schools shall do all of the  
 8     following:

9     (a) Superintend the schools of his or her county.

10    (b) Maintain responsibility for the fiscal oversight of each  
 11    school district in his or her county pursuant to the authority  
 12    granted by this code.

13    (c) (1) Visit and examine each school in his or her county at  
 14    reasonable intervals to observe its operation and to learn of its  
 15    problems. He or she may annually present a report of the state of  
 16    the schools in his or her county, and of his or her office,

1 including, but not limited to, his or her observations while  
2 visiting the schools, to the board of education and the board of  
3 supervisors of his or her county.

4 (2) (A) To the extent that funds are appropriated for purposes  
5 of this paragraph, the county superintendent, or his or her  
6 designee, shall annually present a report, *in consultation with the*  
7 *county's Education Monitoring Task Force*, to the governing  
8 board of each school district under his or her jurisdiction, the  
9 county board of education of his or her county, and the board of  
10 supervisors of his or her county describing the state of the  
11 schools in the county or of his or her office that are ranked in  
12 deciles 1 to 3, inclusive, of the 2003 base Academic Performance  
13 Index, as defined in subdivision (b) of Section 17592.70, and  
14 shall include, among other things, his or her observations while  
15 visiting the schools.

16 (B) The county superintendent of the Counties of Alpine,  
17 Amador, Del Norte, Mariposa, Plumas, Sierra, and the City and  
18 County of San Francisco shall contract with another county  
19 office of education or an independent auditor to conduct the  
20 required visits and make all reports required by this paragraph, *in*  
21 *consultation with each respective county's Education Monitoring*  
22 *Task Force*.

23 (C) The results of the visit shall be reported to the governing  
24 board of the school district on a quarterly basis at a regularly  
25 scheduled meeting held in accordance with public notification  
26 requirements.

27 (D) The visits made pursuant to this paragraph shall be  
28 conducted at least annually and shall meet the following criteria:

29 (i) Not disrupt the operation of the school.

30 (ii) Be performed by individuals who meet the requirements of  
31 Section 45125.1.

32 (iii) Consist of not less than 25 percent unannounced visits in  
33 each county. During unannounced visits in each county, the  
34 county superintendent shall not demand access to documents or  
35 specific school personnel. Unannounced visits shall only be used  
36 to observe the condition of school repair and maintenance and  
37 the sufficiency of instructional materials, as defined by Section  
38 60119.

39 (iv) *Include at least one member of the county's Education*  
40 *Monitoring Task Force*.

1 (E) The priority objective of the visits made pursuant to this  
2 paragraph shall be to determine the status of all of the following  
3 circumstances:

4 (i) Sufficient textbooks as defined in Section 60119 and as  
5 specified in subdivision (i).

6 (ii) The condition of a facility that poses an emergency or  
7 urgent threat to the health or safety of pupils or staff as defined in  
8 district policy, or as defined by paragraph (1) of subdivision (c)  
9 of Section 17592.72.

10 (iii) The accuracy of data reported on the school accountability  
11 report card with respect to the availability of sufficient textbooks  
12 and instructional materials as defined by Section 60119 and the  
13 safety, cleanliness, and adequacy of school facilities, including  
14 good repair as required by Sections 17014, 17032.5, 17070.75,  
15 and 17089.

16 (d) Distribute all laws, reports, circulars, instructions, and  
17 blanks that he or she may receive for the use of the school  
18 officers.

19 (e) Annually present a report to the governing board of the  
20 school district and the Superintendent ~~of Public Instruction~~  
21 regarding the fiscal solvency of any school district with a  
22 disapproved budget, qualified interim certification, or a negative  
23 interim certification, or that is determined at any time to be in a  
24 position of fiscal uncertainty pursuant to Section 42127.6.

25 (f) Keep in his or her office the reports of the Superintendent  
26 ~~of Public Instruction~~.

27 (g) Keep a record of his or her official acts, and of all the  
28 proceedings of the county board of education, including a record  
29 of the standing, in each study, of all applicants for certificates  
30 who have been examined, which shall be open to the inspection  
31 of any applicant or his or her authorized agent.

32 (h) Enforce the course of study.

33 (i) (1) Enforce the use of state textbooks and instructional  
34 materials and of high school textbooks and instructional  
35 materials regularly adopted by the proper authority.

36 (2) For purposes of this subdivision, sufficient textbooks or  
37 instructional materials has the same meaning as in subdivision (c)  
38 of Section 60119.

39 (3) If a school is ranked in any of deciles 1 to 3, inclusive, of  
40 the 2003 base Academic Performance Index, as defined in

subdivision (b) of Section 17592.70, and is not currently under review through a state or federal intervention program, the county superintendent shall specifically review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be conducted within the first four weeks of the school year *and in consultation with the county's Education Monitoring Task Force*. For the 2004–05 fiscal year only, the county superintendent shall make a diligent effort to conduct a visit to each school pursuant to this paragraph within 120 days of receipt of funds for this purpose.

(4) If the county superintendent determines that a school does not have sufficient textbooks or instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined by subdivision (c) of Section 60119, the county superintendent shall do all of the following, *in consultation with the county's Education Monitoring Task Force*:

(A) Prepare a report that specifically identifies and documents the areas or instances of noncompliance.

(B) Provide within five business days of the review, a copy of the report to the school district, as provided in subdivision (c), and forward the report to the Superintendent ~~of Public Instruction~~.

(C) Provide the school district with the opportunity to remedy the deficiency. The county superintendent shall ensure remediation of the deficiency no later than the second month of the school term.

(D) If the deficiency is not remedied as required pursuant to subparagraph (C), the county superintendent shall request the department, with approval by the State Board of Education, to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the state board approves a recommendation from the department to purchase textbooks or instructional materials for the school district, the board shall issue a public statement at a regularly scheduled meeting indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials as required by this subdivision. Before purchasing the textbooks or instructional materials, the department shall consult with the district to

1 determine which textbooks or instructional materials to purchase.  
2 All purchases of textbooks or instructional materials shall  
3 comply with Chapter 3.25 (commencing with Section 60420) of  
4 Part 33. The amount of funds necessary to the purchase the  
5 textbooks and materials is a loan to the school district receiving  
6 the textbooks or instructional materials. Unless the school district  
7 repays the amount owed based upon an agreed-upon repayment  
8 schedule with the Superintendent of ~~Public Instruction~~, the  
9 Superintendent of ~~Public Instruction~~ shall notify the Controller  
10 and the Controller shall deduct an amount equal to the total  
11 amount used to purchase the textbooks and materials, from the  
12 next principal apportionment of the district or from another  
13 apportionment of state funds.

14 (j) Preserve carefully all reports of school officers and  
15 teachers.

16 (k) Deliver to his or her successor, at the close of his or her  
17 official term, all records, books, documents, and papers  
18 belonging to the office, taking a receipt for them, which shall be  
19 filed with the department.

20 (l) (1) Submit two reports during the fiscal year to the county  
21 board of education in accordance with the following:

22 (A) The first report shall cover the financial and budgetary  
23 status of the county office of education for the period ending  
24 October 31. The second report shall cover the period ending  
25 January 31. Both reports shall be reviewed by the county board  
26 of education and approved by the county superintendent of  
27 schools no later than 45 days after the close of the period being  
28 reported.

29 (B) As part of each report, the county superintendent shall  
30 certify in writing whether or not the county office of education is  
31 able to meet its financial obligations for the remainder of the  
32 fiscal year and, based on current forecasts, for two subsequent  
33 fiscal years. The certifications shall be classified as positive,  
34 qualified, or negative, pursuant to standards prescribed by the  
35 Superintendent of ~~Public Instruction~~, for the purposes of  
36 determining subsequent state agency actions pursuant to Section  
37 1240.1. For purposes of this subdivision, a negative certification  
38 shall be assigned to any county office of education that, based  
39 upon current projections, will be unable to meet its financial  
40 obligations for the remainder of the fiscal year or for the

1 subsequent fiscal year. A qualified certification shall be assigned  
2 to any county office of education that may not meet its financial  
3 obligations for the current fiscal year or two subsequent fiscal  
4 years. A positive certification shall be assigned to any county  
5 office of education that will meet its financial obligations for the  
6 current fiscal year and subsequent two fiscal years. In accordance  
7 with those standards, the Superintendent of Public Instruction  
8 may reclassify any certification. If a county office of education  
9 receives a negative certification, the Superintendent of Public  
10 Instruction, or his or her designee, may exercise the authority set  
11 forth in subdivision (c) of Section 1630. Copies of each  
12 certification, and of the report containing that certification, shall  
13 be sent to the Superintendent of Public Instruction at the time the  
14 certification is submitted to the county board of education.  
15 Copies of each qualified or negative certification and the report  
16 containing that certification shall be sent to the Controller at the  
17 time the certification is submitted to the county board of  
18 education.

19 (2) All reports and certifications required under this  
20 subdivision shall be in a format or on forms prescribed by the  
21 Superintendent of Public Instruction, and shall be based on  
22 standards and criteria for fiscal stability adopted by the State  
23 Board of Education pursuant to Section 33127. The reports and  
24 supporting data shall be made available by the county  
25 superintendent of schools to any interested party upon request.

26 (3) This subdivision does not preclude the submission of  
27 additional budgetary or financial reports by the county  
28 superintendent to the county board of education or to the  
29 Superintendent of Public Instruction.

30 (4) The county superintendent of schools is not responsible for  
31 the fiscal oversight of the community colleges in the county,  
32 however, he or she may perform financial services on behalf of  
33 those community colleges.

34 (m) If requested, act as agent for the purchase of supplies for  
35 the city and high school districts of his or her county.

36 (n) For purposes of Section 44421.5, report to the Commission  
37 on Teacher Credentialing the identity of any certificated person  
38 who knowingly and willingly reports false fiscal expenditure data  
39 relative to the conduct of any educational program. This  
40 requirement applies only if, in the course of his or her normal

1 duties, the county superintendent of schools discovers  
2 information that gives him or her reasonable cause to believe that  
3 false fiscal expenditure data relative to the conduct of any  
4 educational program has been reported.

5 *SEC. 2. Section 17002 of the Education Code is amended to*  
6 *read:*

7 17002. The following terms wherever used or referred to in  
8 this chapter, shall have the following meanings, respectively,  
9 unless a different meaning appears from the context:

10 (a) "Apportionment" means a reservation of funds necessary  
11 to finance the cost of any project approved by the board for lease  
12 to an applicant school district.

13 (b) "Board" means the State Allocation Board.

14 (c) "Cost of project" includes, but is not limited to, the cost of  
15 all real estate property rights, and easements acquired, and the  
16 cost of developing the site and streets and utilities immediately  
17 adjacent thereto, the cost of construction, reconstruction, or  
18 modernization of buildings and the furnishing and equipping,  
19 including the purchase of educational technology hardware, of  
20 those buildings, the supporting wiring and cabling, and the  
21 technological modernization of existing buildings to support that  
22 hardware, the cost of plans, specifications, surveys, and estimates  
23 of costs, and other expenses that are necessary or incidental to  
24 the financing of the project. For purposes of this section,  
25 "educational technology hardware" includes, but is not limited  
26 to, computers, telephones, televisions, and video cassette  
27 recorders.

28 (d) "*Education Monitoring Task Force*" means the task force  
29 established pursuant to Section 35276.

30 ~~(d)~~

31 (e) (1) "Good repair" means the facility is maintained in a  
32 manner that assures that it is clean, safe, and functional as  
33 determined pursuant to an interim evaluation instrument  
34 developed by the Office of Public School Construction. The  
35 instrument shall not require capital enhancements beyond the  
36 standards to which the facility was designed and constructed.

37 (2) By January 25, 2005, the Office of Public School  
38 Construction shall develop the interim evaluation instrument  
39 based on existing prototypes and shall consult with county  
40 superintendents of schools county Education Monitoring Task



Forces and school districts during the development of the instrument. The Office of Public School Construction shall report and make recommendations to the Legislature and Governor not later than December 31, 2005, regarding options for state standards as an alternative to the interim evaluation instrument developed pursuant to paragraph (1). By September 1, 2006, the Legislature and Governor shall, by statute, determine the state standard that shall apply for subsequent fiscal years.

~~(e)~~

~~(f)~~ “Lease” includes a lease with an option to purchase.

~~(f)~~

~~(g)~~ “Project” means the facility being constructed or acquired by the state for rental to the applicant school district and may include the reconstruction or modernization of existing buildings, construction of new buildings, the grading and development of sites, acquisition of sites therefor and any easements or rights-of-way pertinent thereto or necessary for its full use including the development of streets and utilities.

~~(g)~~

~~(h)~~ “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

*SEC. 3. Section 17014 of the Education Code is amended to read:*

17014. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and encourage applicants to maintain all buildings under their control, the board shall require the applicant to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the general fund of the school district for the exclusive purpose of providing moneys for regular maintenance and routine repair of school buildings, according the highest priority to funding for the purpose set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for the term of the lease

1 agreements of all projects constructed under this chapter, a  
2 minimum amount equal to or greater than 2 percent of the  
3 general fund budget of the applicant district for that fiscal year.  
4 This paragraph is applicable only to the following districts:

5 (A) High school districts with average daily attendance greater  
6 than 300.

7 (B) Elementary school districts with average daily attendance  
8 greater than 900.

9 (C) Unified school districts with average daily attendance  
10 greater than 1,200.

11 (c) For each project funded after July 1, 1998, the board shall  
12 require the applicant school district governing board to certify, as  
13 part of the annual budget process of the school district and  
14 beginning in the fiscal year in which the project is funded by the  
15 state, that a plan has been prepared for completing major  
16 maintenance, repair, and replacement requirements for the  
17 project. For purposes of this subdivision, the term “major  
18 maintenance, repair, and replacement” means roofing, siding,  
19 painting, floor and window coverings, fixtures, cabinets, heating  
20 and cooling systems, landscaping, fences, and other items  
21 designated by the governing board of the school district. The  
22 board shall require the school district’s governing board to certify  
23 that the plan includes and is being implemented as follows:

24 (1) Identification of the major maintenance, repair, and  
25 replacement needs for the project.

26 (2) Specification of a schedule for completing the major  
27 maintenance, repair, and replacement needs.

28 (3) Specification of a current cost estimate for the scheduled  
29 major maintenance, repair, and replacement needs.

30 (4) Specification of the school district’s schedule for funding a  
31 reserve to pay for the scheduled major maintenance, repair, and  
32 replacement needs.

33 (5) Review of the plan annually, as a part of the annual budget  
34 process of the school district, and update, as needed, the major  
35 maintenance, repair, and replacement needs, the estimates of  
36 expected costs, and any adjustments in funding the reserve.

37 (6) Availability for public inspection of the original plan, and  
38 all updated versions of the plan, at the office of the  
39 superintendent of the school district during the working hours of  
40 the school district.

1 (7) Review of, and comment on, the plan by the county's  
2 Education Monitoring Task Force.

3 ~~(7)~~

4 (8) Provision in the annual budget of the school district of a  
5 provision that states the total funding available in reserve for  
6 scheduled major maintenance, repair and replacement needs as  
7 specified in the updated plan, and an explanation if this amount is  
8 less than that specified in the updated plan. The reserve shall be  
9 maintained in the restricted account established pursuant to  
10 subdivision (b).

11 (d) For purposes of this section, "good repair" has the same  
12 meaning as specified in subdivision (d) of Section 17002.

13 SEC. 4. Section 17070.15 of the Education Code is amended  
14 to read:

15 17070.15. The following terms, wherever used or referred to  
16 in this chapter, shall have the following meanings, respectively,  
17 unless a different meaning appears from the context:

18 (a) "Apportionment" means a reservation of funds for the  
19 purpose of eligible new construction, modernization, or hardship  
20 approved by the board for an applicant school district.

21 (b) "Attendance area" means the geographical area serving an  
22 existing high school and those junior high schools and  
23 elementary schools included therein.

24 (c) "Board" means the State Allocation Board as established  
25 by Section 15490 of the Government Code.

26 (d) "Committee" means the State School Building Finance  
27 Committee established pursuant to Section 15909.

28 (e) "Education Monitoring Task Force" means the task force  
29 established pursuant to Section 35276.

30 (f) "County fund" means a county school facilities fund  
31 established pursuant to Section 17070.43.

32 ~~(f)~~

33 (g) "Department" means the Department of General Services.

34 ~~(g)~~

35 (h) "Fund" means the applicable 1998 State School Facilities  
36 Fund, the 2002 State School Facilities Fund, or the 2004 State  
37 School Facilities Fund, established pursuant to Section 17070.40.

38 ~~(h)~~

39 (i) "Good repair" has the same meaning as specified in  
40 subdivision (d) of Section 17002.

~~(i)~~

(j) “Modernization” means any modification of a permanent structure that is at least 25 years old, or in the case of a portable classroom, that is at least 20 years old, that will enhance the ability of the structure to achieve educational purposes.

~~(j)~~

(k) “Portable classroom” means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

~~(k)~~

(l) “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

~~(l)~~

(m) “School building capacity” means the capacity of a school building to house pupils.

~~(m)~~

(n) “School district” means a school district or a county office of education. For purposes of determining eligibility under this chapter, “school district” may also mean a high school attendance area.

*SEC. 5. Section 35186 is added to the Education Code, to read:*

35186. (a) A school district shall use the uniform complaint process required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve deficiencies related to instructional materials, the condition of a school facility that is not maintained in a clean or safe manner or in good repair, and a teacher vacancy or misassignment. The following are applicable with respect to complaints filed pursuant to this section:

(1) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall

1 include a space to mark to indicate whether a response is  
2 requested. All complaints and responses are public records.

3 (2) The complaint form shall specify the location for filing a  
4 complaint. A complainant may add as much text to explain the  
5 complaint as he or she wishes.

6 (3) A complaint shall be filed with the principal of the school  
7 or his or her designee. A complaint about problems beyond the  
8 authority of the school principal shall be forwarded in a timely  
9 manner, but not to exceed 10 working days, to the appropriate  
10 school district official for resolution.

11 (b) The principal or the designee of the district superintendent,  
12 as applicable, shall make all reasonable efforts to investigate any  
13 problem within his or her authority. The principal or designee of  
14 the district superintendent shall remedy a valid complaint within  
15 a reasonable time period but not to exceed 30 working days from  
16 the date the complaint was received. The principal or designee of  
17 the district superintendent shall report to the complainant the  
18 resolution of the complaint within 45 working days of the initial  
19 filing. if the principal makes this report, the principal shall also  
20 report the same information in the same timeframe to the  
21 designee of the district superintendent.

22 (c) A complainant not satisfied with the resolution of the  
23 principal or the designee of the district superintendent has the  
24 right to describe the complaint to the governing board of the  
25 school district at a regularly scheduled hearing of the governing  
26 board. As to complaints involving a condition of a facility that  
27 poses an emergency or urgent threat, as described in paragraph  
28 (1) of subdivision (c) of Section 17592.72, a complainant who is  
29 not satisfied with the resolution proffered by the principal or the  
30 designee of the district superintendent has the right to file an  
31 appeal to the Superintendent, who shall provide a written report  
32 to the State Board of Education describing the basis for the  
33 complaint and, as appropriate, a proposed remedy for the issue  
34 described In the complaint.

35 (d) A school district shall report summarized data on the  
36 nature and resolution of all complaints on a quarterly basis to the  
37 county superintendent of schools, the county's Education  
38 Monitoring Task Force, and the governing board of the school  
39 district. The summary shall be publicly reported on a quarterly  
40 basis at a regularly scheduled meeting of the governing board of

1 the school district. The report shall include the number of  
2 complaints by general subject area with the number of resolved  
3 and unresolved complaints. The complaints and written  
4 responses shall be available as public records.

5 (e) The procedure required pursuant to this section is intended  
6 to address all of the following:

7 (1) A complaint related to instructional materials, including all  
8 of the following:

9 (A) That a pupil, including an English learner, does not have  
10 standards-aligned textbooks or instructional materials, or  
11 state-adopted or district-adopted textbooks or other required  
12 instructional materials to use in class.

13 (B) That a pupil does not have access to instructional materials  
14 to use at home or after school in order to complete required  
15 homework assignments.

16 (C) That textbooks or instructional materials are in poor or  
17 unusable condition, having missing pages, or are unreadable due  
18 to damage.

19 (2) A complaint related to teacher vacancy or misassignment,  
20 including any of the following:

21 (A) That a semester has begun, and a certified teacher is not  
22 assigned to teach a class.

23 (B) That a teacher who lacks credentials or training to teach  
24 English learners is assigned to teach a class with more than 20  
25 percent English learner pupils in the class. This subparagraph  
26 does not relieve a school district from complying with state or  
27 federal law regarding teachers of English learners.

28 (C) That a teacher is assigned to teach a class for which the  
29 teacher lacks subject matter competency.

30 (3) A complaint related to the condition of school facilities.

31 (f) In order to identify appropriate subjects of complaint, a  
32 notice shall be posted in each classroom in each school in the  
33 school district notifying parents and guardians of all of the  
34 following:

35 (1) There is a requirement that a school provide sufficient  
36 textbooks and instructional materials. In order to meet this  
37 requirement, each pupil, including English learners, shall have a  
38 textbook or instructional materials, or both, to use in class and to  
39 take home to complete required homework assignments.

1 (2) There is a requirement that school facilities shall be clean,  
2 safe, and maintained in good repair.

3 (3) The location at which to obtain a form to file a complaint  
4 in case of a shortage. Posting a notice downloadable from the  
5 Web site of the department shall satisfy this requirement.

6 (g) A local educational agency shall establish local policies  
7 and procedures, post notices, and implement this section on or  
8 before January 1, 2007.

9 (h) For purposes of this section, the following definitions  
10 apply:

11 (1) "Good repair" has the same meaning as specified in  
12 subdivision (e) of Section 17002.

13 (2) "Misassignment" means the placement of a certificated  
14 employee in a teaching or services position for which the  
15 employee does not hold a legally recognized certificate or  
16 credential, or the placement of a certificated employee in a  
17 teaching or services position that the employee is not otherwise  
18 authorized by statute to hold.

19 (3) "Teacher vacancy" means a vacant teacher position as  
20 defined in subparagraph (A) of paragraph (5) of subdivision (b)  
21 of Section 33126.

22 *SEC. 6. Article 9.3 (commencing with Section 35276) is*  
23 *added to Chapter 2 of Part 21 of the Education Code, to read:*  
24

25 *Article 9.3. Education Monitoring Task Force*  
26

27 *35276. (a) By March 1, 2006, the county superintendent of*  
28 *schools shall establish an Education Monitoring Task Force,*  
29 *which shall be responsible for ensuring compliance with the*  
30 *settlement agreement in the case of Williams v. State of*  
31 *California (Super. Ct., San Francisco, No. CGC-00-312236),*  
32 *with respect to, among other things, the adequacy and sufficiency*  
33 *of instructional materials, the condition of school facilities that*  
34 *are not maintained in a clean or safe manner or in good repair,*  
35 *and teacher vacancies or misassignments.*

36 *(b) The task force shall be a multicultural body, consisting of*  
37 *five members, appointed by the county superintendent, who*  
38 *represent the state's diversity and are representatives of pupils in*  
39 *the county, parents of pupils in the county, and community*  
40 *members in the county.*

1     *SEC. 7. Section 41020 of the Education Code is amended to*  
2     *read:*

3     41020. (a) It is the intent of the Legislature to encourage  
4     sound fiscal management practices among school districts for the  
5     most efficient and effective use of public funds for the education  
6     of children in California by strengthening fiscal accountability at  
7     the district, county, and state levels.

8     (b) (1) Not later than the first day of May of each fiscal year,  
9     each county superintendent of schools shall provide for an audit  
10    of all funds under his or her jurisdiction and control and the  
11    governing board of each local educational agency shall either  
12    provide for an audit of the books and accounts of the local  
13    educational agency, including an audit of income and  
14    expenditures by source of funds, or make arrangements with the  
15    county superintendent of schools having jurisdiction over the  
16    local educational agency to provide for that auditing.

17    (2) A contract to perform the audit of a local educational  
18    agency that has a disapproved budget or has received a negative  
19    certification on any budget or interim financial report during the  
20    current fiscal year or either of the two preceding fiscal years, or  
21    for which the county superintendent of schools has otherwise  
22    determined that a lack of going concern exists, is not valid unless  
23    approved by the responsible county superintendent of schools  
24    and the governing board.

25    (3) If the governing board of a local educational agency has  
26    not provided for an audit of the books and accounts of the local  
27    educational agency by April 1, the county superintendent of  
28    schools having jurisdiction over the local educational agency  
29    shall provide for the audit of each local educational agency.

30    (4) An audit conducted pursuant to this section shall fully  
31    comply with the Government Auditing Standards issued by the  
32    Comptroller General of the United States.

33    (5) For purposes of this section, “local educational agency”  
34    does not include community colleges.

35    (c) Each audit conducted in accordance with this section shall  
36    include all funds of the local educational agency, including the  
37    student body and cafeteria funds and accounts and any other  
38    funds under the control or jurisdiction of the local educational  
39    agency. Each audit shall also include an audit of pupil attendance  
40    procedures.



1 (d) All audit reports for each fiscal year shall be developed  
2 and reported using a format established by the Controller after  
3 consultation with the Superintendent of Public Instruction and  
4 the Director of Finance.

5 (e) (1) The cost of the audits provided for by the county  
6 superintendent of schools shall be paid from the county school  
7 service fund and the county superintendent of schools shall  
8 transfer the pro rata share of the cost chargeable to each district  
9 from district funds.

10 (2) The cost of the audit provided for by a governing board  
11 shall be paid from local educational agency funds. The audit of  
12 the funds under the jurisdiction and control of the county  
13 superintendent of schools shall be paid from the county school  
14 service fund.

15 (f) (1) The audits shall be made by a certified public  
16 accountant or a public accountant, licensed by the California  
17 Board of Accountancy, and selected by the local educational  
18 agency, as applicable, from a directory of certified public  
19 accountants and public accountants deemed by the Controller as  
20 qualified to conduct audits of local educational agencies, which  
21 shall be published by the Controller not later than December 31  
22 of each year.

23 (2) Commencing with the 2003–04 fiscal year and except as  
24 provided in subdivision (d) of Section 41320.1, it is unlawful for  
25 a public accounting firm to provide audit services to a local  
26 educational agency if the lead audit partner, or coordinating audit  
27 partner, having primary responsibility for the audit, or the audit  
28 partner responsible for reviewing the audit, has performed audit  
29 services for that local educational agency in each of the six  
30 previous fiscal years. The Education Audits Appeal Panel may  
31 waive this requirement if the panel finds that no otherwise  
32 eligible auditor is available to perform the audit.

33 (3) It is the intent of the Legislature that, notwithstanding  
34 paragraph (2) ~~of this subdivision~~, the rotation within public  
35 accounting firms conform to provisions of the federal  
36 Sarbanes-Oxley Act of 2002 (P.L. 107-204; 15 U.S.C. Sec. 7201  
37 et seq.), and upon release of the report required by the act of the  
38 Comptroller General of the United States addressing the  
39 mandatory rotation of registered public accounting firms, the  
40 Legislature intends to reconsider the provisions of paragraph (2).

1 In determining which certified public accountants and public  
2 accountants shall be included in the directory, the Controller  
3 shall use the following criteria:

4 (A) The certified public accountants or public accountants  
5 shall be in good standing as certified by the Board of  
6 Accountancy.

7 (B) The certified public accountants or public accountants, as  
8 a result of a quality control review conducted by the Controller  
9 pursuant to Section 14504.2, shall not have been found to have  
10 conducted an audit in a manner constituting noncompliance with  
11 subdivision (a) of Section 14503.

12 (g) (1) The auditor's report shall include each of the  
13 following:

14 (A) A statement that the audit was conducted pursuant to  
15 standards and procedures developed in accordance with Chapter  
16 3 (commencing with Section 14500) of Part 9 of Division 4 of  
17 Title 1.

18 (B) A summary of audit exceptions and management  
19 improvement recommendations.

20 (C) Each local education agency's audit shall include an  
21 auditor's evaluation on whether there is substantial doubt about  
22 the local agency's ability to continue as a going concern for a  
23 reasonable period of time. This evaluation shall be based on the  
24 Statement of Auditing Standards (SAS) No. 59, as issued by the  
25 AICPA regarding disclosure requirements relating the entity's  
26 ability to continue as a going concern.

27 (2) To the extent possible, a description of correction or plan  
28 of correction shall be incorporated in the audit report, describing  
29 the specific actions that are planned to be taken, or that have been  
30 taken, to correct the problem identified by the auditor. The  
31 descriptions of specific actions to be taken or that have been  
32 taken shall not solely consist of general comments such as "will  
33 implement," "accepted the recommendation," or "will discuss at  
34 a later date."

35 (h) Not later than December 15, a report of each local  
36 educational agency audit for the preceding fiscal year shall be  
37 filed with the county superintendent of schools of the county in  
38 which the local educational agency is located, the ~~State~~  
39 ~~Department of Education~~ *department*, and the Controller. The  
40 ~~Superintendent of Public Instruction~~ shall make any adjustments

1 necessary in future apportionments of all state funds, to correct  
2 any audit exceptions revealed by those audit reports.

3 (i) (1) Commencing with the 2002–03 audit of local  
4 educational agencies pursuant to this section, each county  
5 superintendent of schools shall be responsible for reviewing the  
6 audit exceptions contained in an audit of a local educational  
7 agency under his or her jurisdiction related to attendance,  
8 inventory of equipment, internal control, and any miscellaneous  
9 items, and determining whether the exceptions have been either  
10 corrected or an acceptable plan of correction has been developed.

11 (2) Commencing with the 2004–05 audit of local educational  
12 agencies pursuant to this section, each county superintendent of  
13 schools shall include in the review of audit exceptions performed  
14 pursuant to this subdivision those audit exceptions related to use  
15 of instructional materials program funds, teacher misassignments  
16 pursuant to Section 44258.9, information reported on the school  
17 accountability report card required pursuant to Section 33126 and  
18 shall determine, *in consultation with the county's Education*  
19 *Monitoring Task Force*, whether the exceptions are either  
20 corrected or an acceptable plan of correction has been developed.

21 (j) Upon submission of the final audit report to the governing  
22 board of each local educational agency and subsequent receipt of  
23 the audit by the county superintendent of schools having  
24 jurisdiction over the local educational agency, the county office  
25 of education shall do all of the following:

26 (1) Review audit exceptions related to attendance, inventory of  
27 equipment, internal control, and other miscellaneous exceptions.  
28 Attendance exceptions or issues shall include, but not be limited  
29 to, those related to revenue limits, adult education, and  
30 independent study.

31 (2) If a description of the correction or plan of correction has  
32 not been provided as part of the audit required by this section,  
33 then the county superintendent of schools shall notify the local  
34 educational agency and request the governing board of the local  
35 educational agency to provide to the county superintendent of  
36 schools a description of the corrections or plan of correction by  
37 March 15.

38 (3) Review the description of correction or plan of correction  
39 and determine its adequacy. If the description of the correction or  
40 plan of correction is not adequate, the county superintendent of

1 schools shall require the local educational agency to resubmit  
2 that portion of its response that is inadequate.

3 (k) Each county superintendent of schools shall certify to the  
4 Superintendent of ~~Public Instruction~~ and the Controller, not later  
5 than May 15, that his or her staff has reviewed all audits of local  
6 educational agencies under his or her jurisdiction for the prior  
7 fiscal year, that all exceptions that the county superintendent was  
8 required to review were reviewed, and that all of those  
9 exceptions, except as otherwise noted in the certification, have  
10 been corrected by the local educational agency or that an  
11 acceptable plan of correction has been submitted to the county  
12 superintendent of schools. In addition, the county superintendent  
13 shall identify, by local educational agency, any  
14 attendance-related audit exception or exceptions involving state  
15 funds, and require the local educational agency to which the audit  
16 exceptions were directed to submit appropriate reporting forms  
17 for processing by the Superintendent of Public Instruction.

18 (l) In the audit of a local educational agency for a subsequent  
19 year, the auditor shall review the correction or plan or plans of  
20 correction submitted by the local educational agency to  
21 determine if the exceptions have been resolved. If not, the auditor  
22 shall immediately notify the appropriate county office of  
23 education and the ~~State Department of Education~~ *department* and  
24 restate the exception in the audit report. After receiving that  
25 notification, the ~~State Department of Education~~ *department* shall  
26 either consult with the local educational agency to resolve the  
27 exception or require the county superintendent of schools to  
28 follow up with the local educational agency.

29 (m) (1) The Superintendent of ~~Public Instruction~~ shall be  
30 responsible for ensuring that local educational agencies have  
31 either corrected or developed plans of correction for any one or  
32 more of the following:

33 (A) All federal and state compliance audit exceptions  
34 identified in the audit.

35 (B) Any exceptions that the county superintendent certifies as  
36 of May 15 have not been corrected.

37 (C) Any repeat audit exceptions that are not assigned to a  
38 county superintendent to correct.

39 (2) In addition, the Superintendent of ~~Public Instruction~~  
40 be responsible for ensuring that county superintendents of

1 schools and each county board of education that serves as the  
2 governing board of a local educational agency either correct all  
3 audit exceptions identified in the audits of county  
4 superintendents of schools and of the local educational agencies  
5 for which the county boards of education serve as the governing  
6 boards or develop acceptable plans of correction for those  
7 exceptions.

8 (3) The Superintendent of ~~Public Instruction~~ shall report  
9 annually to the Controller on his or her actions to ensure that  
10 school districts, county superintendents of schools, and each  
11 county board of education that serves as the governing board of a  
12 school district have either corrected or developed plans of  
13 correction for any of the exceptions noted pursuant to paragraph  
14 (1).

15 (n) To facilitate correction of the exceptions identified by the  
16 audits issued pursuant to this section, commencing with *audits*  
17 ~~for the 2002-03 audits~~ *fiscal year* pursuant to this section, the  
18 Controller shall require auditors to categorize audit exceptions in  
19 each audit report in a manner that will make it clear to both the  
20 county superintendent of schools and the Superintendent of  
21 ~~Public Instruction~~ which exceptions they are responsible for  
22 ensuring the correction of by a local educational agency. In  
23 addition, the Controller annually shall select a sampling of  
24 county superintendents of schools and perform a followup of the  
25 audit resolution process of those county superintendents of  
26 schools and report the results of that followup to the  
27 Superintendent of ~~Public Instruction~~ and the county  
28 superintendents of schools that were reviewed.

29 (o) County superintendents of schools shall adjust subsequent  
30 local property tax requirements to correct audit exceptions  
31 relating to local educational agency tax rates and tax revenues.

32 (p) If a governing board or county superintendent of schools  
33 fails or is unable to make satisfactory arrangements for the audit  
34 pursuant to this section, the Controller shall make arrangements  
35 for the audit and the cost of the audit shall be paid from local  
36 educational agency funds or the county school service fund, as  
37 the case may be.

38 (q) Audits of regional occupational centers and programs are  
39 subject to the provisions of this section.

1 (r) This section does not authorize examination of, or reports  
2 on, the curriculum used or provided for in any local educational  
3 agency.

4 (s) Notwithstanding any other provision of law, a nonauditing,  
5 management, or other consulting service to be provided to a local  
6 educational agency by a certified public accounting firm while  
7 the certified public accounting firm is performing an audit of the  
8 agency pursuant to this section must be in accord with  
9 Government Accounting Standards, Amendment No. 3, as  
10 published by the United States General Accounting Office.

11 *SEC. 8. If the Commission on State Mandates determines that*  
12 *this act contains costs mandated by the state, reimbursement to*  
13 *local agencies and school districts for those costs shall be made*  
14 *pursuant to Part 7 (commencing with Section 17500) of Division*  
15 *4 of Title 2 of the Government Code.*

16 *SEC. 9. (a) The sum of twenty million two hundred thousand*  
17 *dollars (\$20,200,000) is hereby appropriated from the General*  
18 *Fund to the State Department of Education in accordance with*  
19 *the following schedule:*

20 *(1) The sum of five million dollars (\$5,000,000) to the State*  
21 *Department of Education for allocation to the State Instructional*  
22 *Materials Fund for purposes of acquiring instructional materials*  
23 *for school districts pursuant to subdivision (i) of Section 1240 of*  
24 *the Education Code.*

25 *(2) The sum of fifteen million dollars (\$15,000,000) to the*  
26 *State Department of Education for allocation to county offices of*  
27 *education to fund the review, monitor of, and reporting on*  
28 *teacher training, certification, misassignment, hiring and*  
29 *retention practices of school districts pursuant to subparagraph*  
30 *(G) of paragraph (1) of subdivision (a) of Section 42127.6 of the*  
31 *Education Code, subparagraphs (A) and (B) of paragraph (1) of*  
32 *subdivision (b) of Section 44258.9 of the Education Code, and*  
33 *paragraph (4) of subdivision (e) of Section 44258.9 of the*  
34 *Education Code, and to conduct and report on site visits*  
35 *pursuant to paragraph (2) of subdivision (c) of Section 1240 of*  
36 *the Education Code, and oversee schools, compliance with*  
37 *instructional materials sufficiency requirements as provided in*  
38 *paragraphs (2) to (4), inclusive, of subdivision (i) of Section*  
39 *1240 of the Education Code.*

1     (B) Funds appropriated pursuant this paragraph shall be  
2     allocated annually to county offices of education at the rate of  
3     three thousand dollars (\$3,000) for each school in the county  
4     ranked in deciles 1 to 3, inclusive, of the Academic Performance  
5     Index, pursuant to Section 52056 of the Education Code, based  
6     on the 2003 base Academic Performance Index score for each  
7     school, provided that the annual allocation for each county shall  
8     be a minimum of twenty thousand dollars (\$20,000).

9     (C) If there are insufficient funds in any year to make the  
10    allocations required by this paragraph, the department shall  
11    allocate funding in proportion to the number of sites in each  
12    county.

13    (D) County offices shall contract with another county office or  
14    independent auditor for any work funded by this paragraph that  
15    is associated with a school operated by that county office.

16    (3) The sum of two hundred thousand dollars (\$200,000) to  
17    the State Department of Education to implement this act.

18    (b) For the purpose of making the computations required by  
19    Section 8 of Article XVI of the California Constitution, the  
20    appropriation made by paragraphs (1) and (2) of subdivision (a)  
21    are "General Fund revenues appropriated for school districts,"  
22    as defined in subdivision (c) of Section 41202 of the Education  
23    Code, for the 2004-05 fiscal year, and included within the "total  
24    allocations to school districts and community college districts  
25    from General Fund proceeds of taxes appropriated pursuant to  
26    Article XIII B," as defined in subdivision (e) of Section 41202 of  
27    the Education code for the 2004-05 fiscal year. Funds  
28    appropriated by this section shall be available for transfer or  
29    encumbrance for three fiscal years, beginning in the 2004-05  
30    fiscal year.